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12 UNITED STATE DISTRICT COURT
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14 NORTHERN DISTRICT OF CALIFORNIA
15 OAKLAND DIVISION
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18 LAN FENG, an individual,

19 Plaintiff,

20 v.

21 ASC THERAPEUTICS, INC., a Delaware
22 corporation, and DOES 1-50, inclusive,

23 Defendants.

24 Case No.: 4:22-cv-02154-HSG

25 **DEFENDANT ASC THERAPEUTICS,
26 INC.'S AMENDED NOTICE OF
27 MOTION AND MOTION TO COMPEL
28 ARBITRATION AND DISMISS
ACTION PURSUANT TO F.R.C.P.
RULE 12(B)(6) OR, IN THE
ALTERNATIVE, STAY
PROCEEDINGS**

29 Date: September 8, 2022

30 Time: 2:00 p.m.

31 Judge: Hon. Haywood S. Gilliam, Jr.

32 Location: Courtroom 2

NOTICE OF MOTION

TO PLAINTIFF LAN FENG AND HER ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 8, 2022, at 2:00 p.m., in Courtroom 2 of the United States District Court, Northern District of California – Oakland Division, located at 1301 Clay Street, Oakland, California 94612, Defendant ASC Therapeutics, Inc. (“Defendant”) will and hereby does move this Court for an order: (1) compelling Plaintiff Lan Feng’s (“Plaintiff”) claims to arbitration under the Federal Arbitration Act, 9 U.S.C. §1 *et seq.* (“FAA”), in accordance with the terms of the arbitration agreement to which she agreed; and (2) dismissing this action under Federal Rules of Civil Procedure Rule 12(b)(6) or, in the alternative, staying all civil court proceedings pending completion of arbitration pursuant to Section 3 of the FAA, 9 U.S.C. §3.

This Motion is made on the grounds that all of Plaintiff's claims are subject to final and binding arbitration pursuant to the agreement into which she entered at the inception of her employment with Defendant. Defendant thus moves to compel arbitration of Plaintiff's claims pursuant to Section 4 of the FAA, 9 U.S.C. §4. Defendant further moves for dismissal of Plaintiff's Complaint under Federal Rule of Civil Procedure 12(b)(6) because Plaintiff's Complaint fails to state a claim upon which relief can be granted as a consequence of her arbitration agreement with Defendant. *Sparling v. Hoffman Constr. Co.*, 864 F.2d 635, 638 (9th Cir. 1988). If the Court declines to dismiss the case, Defendant alternatively moves this Court for an order staying the matter, pursuant to 9 U.S.C. §3.

Defendant's Motion is based on this Notice, the Memorandum of Points and Authorities, the Declarations of Ruhong Jiang, Nan Sheng, and Brian K. Nagatani filed in support of Defendant's Motion, the papers and pleadings on file in this case, and all other evidence and argument as may be presented at the hearing on the Motion.

Dated: April 13, 2022

HIXSON NAGATANI LLP

By B

BRIAN K. NAGATANI

Attorneys for Defendant,
ASC THERAPEUTICS, INC.